IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 14266 of 2004(W)

PETITIONER:

N.V.PETER, AGED 42 YEARS,
S/O. THE LATE VAREED, NJARAKACHALIL HOUSE,
THOTTAKATTUKARA, ALUVA, ERNAKULAM.

BY ADV. SRI.C.S.MANU

RESPONDENT:

SIVADASAN, S/O. NARAYANAN,
MUYKKADDUKARAYIL, THAMARASSERY VEETTIL, ALUVA,
ERNAKULAM DISTRICT.

BY

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE I.A.NO.1595 OF 2003 IN O.S.NO.14 OF 2003 FILED BY THE PETITIONER BEFORE THE MUNSIFF'S COURT, ALUVA.

EXT.P2: COPY OF THE I.A.NO.1596 OF 2003 IN O.S.NO.14 OF 2003 FILED BY THE PETITIONER BEFORE THE MUNSIFF'S COURT, ALUVA.

EXT.P3: COPY OF THE AFFIDAVIT DATED 18.11.2003 FILED BY THE PETITIONER IN I.A.NO.1595 OF 2003 BEFORE THE MUNSIFF'S COURT, ALUVA.

EXT.P4: COPY OF THE ORDER DATED 16.12.2003 IN I.A.NO.1595 OF 2003 AND I.A.NO.1596 OF 2003 IN O.S.NO.14 OF 2003 PASSED BY THE MUNSIFF'S COURT, ALUVA.

TRUE COPY

P.A.TO JUDGE

PIUS C. KURIAKOSE, J.

W.P.(C) No.14266 OF 2004

Dated this the 27th day of June, 2007

JUDGMENT

The order impugned in this writ petition is an order dismissing an application for restoration of the suit which was dismissed for default. The above order in my view is appealable in terms of Order 43 Rule 1 c of the CPC. The present Writ Petition under Article 227 of the Constitution cannot be a substitute for the regular appellate remedy which the petitioner is having against the impugned order. The Writ Petition will stand dismissed. It will be open to the petitioner to prefer an appeal against the impugned order.

PIUS C. KURIAKOSE, JUDGE

btt